

REMARKS

Claims 1-15, 17, and 19-24 are pending in this application. Claims 2, 7, 15, 17, 19, and 20 have been amended to define still more clearly what Applicant regards as his invention; no change in scope of these claims is either intended or believed to be effected by the changes. Claims 1 and 2 are independent.

Applicant notes with appreciation the indication, in the final Office Action dated March 25, 2008, that claims 4, 16, and 19-21 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in scope. As the Examiner knows, in the Amendment After Final Rejection filed on June 16, 2008, the subject matter of claim 16 was incorporated into claim 1; accordingly, claims 1, 3, 4, 10-14, 23, and 24 are believed to be in condition for allowance, and will not be discussed further. Claims 19-21 have not been so rewritten because, for the reasons given below, their base claim is believed to be allowable.

In the Advisory Action dated July 16, 2008, the Examiner retained the rejection of claim 2 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,399,809 to Baro.

To summarize the rejections still in place: Claims 2, 5, 6, 7, 9, 15, 17, 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Baro. Claim 8 stands rejected under 35 U.S.C. 103(a) as being obvious from Baro in view of U.S. Patent No. 7,037,343 to Imran, and claim 22 stands rejected as being obvious from Baro in view of U.S. Patent No. 5,690,691 to Chen.

Claim 2 recites in a controllable gastric band including a nonextensible back and a first chamber arranged to be on a stomach or esophagus side of the back for controlling restriction of the stomach or esophagus by supplying and discharging liquid to and from the first chamber. A second chamber is provided on the stomach or esophagus side of the back, the second chamber being a sensor for detection of a pressure increase in the stomach or esophagus. The first chamber is connected via the second chamber with a reservoir chamber

in a manner to control the restriction by displacement of the liquid between the reservoir chamber and the first chamber as a function of the detected pressure. A device for carrying out a liquid exchange from the first chamber to the second chamber or reservoir chamber, respectively, is provided between the first chamber and the second chamber or reservoir chamber, respectively. See, for example, Figs. 3 or 4 of the present application.¹

By virtue of the features of claim 2, a double-circulating system can be provided with a sensory chamber (the claimed "second chamber") constituting a first liquid space, and a stoma-restricting chamber (the claimed "first chamber"), together with a reservoir chamber, constituting the second liquid space. Unlike with a single-chamber circulation system, in which a liquid displacement from one chamber into the other chamber takes place, a displacement of the liquid from the reservoir chamber into the stoma-restricting chamber and vice versa can thus be provided as a function of the pressure detected by the sensory chamber.

Baro, as understood by Applicant, relates to an artificial sphincter for use at stoma or for like purposes. The artificial sphincter shows more chambers (reference numeral 2), which are connected with a pump via a conduit (reference numeral 4). The embodiment of Baro according to Fig. 4 (cited by the Examiner) shows two hermetically sealed, longitudinally extending, continuous chambers 8 and 9, which are connected together by passage 3 (see column 4, lines 27-30). Introduction and removal of the fluid is done via conduit 4 (see column 4, lines 31-33). When wrapped around the intestine (reference numeral 10) for instance, both chambers 8 and 9 are wrapped around the outside of the intestine. Chambers 8 and 9 are inflated or deflated simultaneously via fluid introduced or removed via conduit 4.

The controllable gastric bond according to claim 2, in stark contrast, comprises a sensory

¹It is of course to be understood that the references to various portions of the present application are by way of illustration and example only, and that the claims are not limited by the details shown in the portions referred to.

chamber (second chamber 1; sec, e.g., Figs. 3 or 4 of the present application) and a stoma-restricting chamber (first chamber 2) being connected with a reservoir chamber (9), whereby the stoma restriction is controlled automatically by a displacement of the liquid between the reservoir chamber (9) and the stoma-restricting chamber (2) as a function of the pressure detected by the sensory chamber (1). Nothing in Baro would teach or suggest these features.

The Advisory Action states that "the first chamber 8 of Baro is connected by way of the second chamber 9 with a " 'reservoir' or pump ". However, the reservoir chamber of claim 2 (see reservoir 9 of Figs. 3 or 4 of the present application, for example) is part of the controllable gastric band, and is not a pump, in particular is not an external pump, as mentioned in Baro. In fact, Baro discusses connecting a *manually operated pump* to chambers 2, or 8, 9 (see, for example, column 3, line 50 of that patent), namely, to inflate and deflate those chambers (see column 4, lines 31-33, noted above). Claim 2 has been clarified to recite that the reservoir is a reservoir *chamber*, in order to even more clearly emphasize the difference between reservoir 9 (shown in Figs. 3 or 4 of the present application) and the pump of Baro.

For at least the foregoing reasons, claim 2 is seen to be clearly allowable over Baro.

The other claims in this application are each dependent from claim 2 discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Respcctfully Submitted

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